

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

TRAVIS CLINTON COLEMAN ,

Plaintiff,

v.

C. MERRITT, et al.,

Defendant.

CASE NO. 2:24-cv-01566-JCC-BAT

**ORDER GRANTING  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

Plaintiff Travis Clinton Coleman, proceeding *pro se* and *in forma pauperis*, filed this civil rights case pursuant to 42 U.S.C. § 1983. Dkts. 1, 4, 5. Presently pending before the Court is Defendants' motion for summary judgment. Dkt. 47. After reviewing the relevant record, for the reasons below, Defendants' motion (Dkt. 47) is granted and Plaintiff's remaining claims – contained in Count I – are dismissed with prejudice. As all other claims were previously dismissed (Dkt. 45) and no claims remain in this action, the Clerk is directed to close the case.

**BACKGROUND**

In his unverified complaint, Plaintiff alleges he was a pretrial detainee at the King County Correctional Facility ("KCCF") at the time he filed his complaint and at the time of the events that give rise to his claims. Dkt. 5. Plaintiff's complaint names the following as Defendants: C. Merritt, Corrections Officer, KCCF; L. Arias, Corrections Officer, KCCF; G. Robinson,

1 Corrections Officer Supervisor, KCCF; R. Prioleau, Classifications Staff, KCCF; R. Kintner,  
 2 Classifications Staff Supervisor, KCCF; I. Idiong, Classifications Staff, KCCF; Hurt,  
 3 Classifications Staff, KCCF. Dkt. 5. Plaintiff's complaint originally alleged three causes of  
 4 action – Counts I, II, and III. *Id.* On February 12, 2025, Defendants moved to dismiss Plaintiff's  
 5 complaint. Dkt. 36. By order dated May 13, 2025, the Court granted the motion to dismiss with  
 6 respect to Counts II and III and dismissed those claims without prejudice but denied the motion  
 7 to dismiss with respect to Count I. Dkt. 45. Accordingly, currently, Count I is the only count  
 8 remaining in this action and Defendants Merritt, Arias, and Robinson are the only remaining  
 9 Defendants.

10 In Count I of his complaint Plaintiff alleges “the three named officers” used excessive  
 11 force against him. Dkt. 5 at 6-7. Construing the complaint liberally, the Court understands  
 12 Plaintiff to be referring to Defendants Merritt, Arias and Robinson in this count. *Id.* Plaintiff  
 13 alleges that on August 10, 2024, after being transported from the hospital after undergoing a  
 14 “spinal fusion of C/5 C/6”, he was removed from the stretcher/rolling bed and “violently  
 15 assaulted and stripped naked.” *Id.* Plaintiff alleges the following:

16 The group of them pushed me to the back of the cell, tried to ram my knees into the  
 17 bench. I stepped up to avoid injury. Then they yanked me down backwards. I landed on  
 18 my feet at which point one of them kicked my left foot forward causing me to do the  
 19 splits at which point the three of them fell on top of me, hyperextending my left leg  
 20 directly in front of me, with my right curled back behind, smashing my torso flat, directly  
 21 with my hyperextended left leg. I went into shock and could not feel my left leg and  
 22 could not breath. They then violently contorted my body, stripping me naked, which I  
 23 feel constitutes sexual assault. My naked body was exposed and smashed into the floor of  
 the unwashed cell. I observed hair, what appeared to be dried feces, and food particles  
 and pieces all over the floor. The form of the incident they filled out saying “observed or  
 reported injuries” they check “no,” despite my being SEVERELY injured. I was not able  
 to get up for several minutes and may have lost consciousness when my head was  
 slammed into the floor next to my leg. I was given no socks or shoes and didn't receive  
 any sandals or slippers for 4 days. I was also not given toilet paper or any food for 18+  
 hours, until I was relocated and fed breakfast the next day.

*Id.*

1 Plaintiff alleges medical staff observed the assault but provided no medical care  
2 and later partially documented his severe leg and ankle injuries. *Id.* Plaintiff alleges his  
3 leg turned bloody black, blue, and purple, that hardened torn muscle and possibly tendon  
4 could be felt down the back of his thigh and he was peeing blood. *Id.*

5 Plaintiff states he believes the events alleged in his complaint “happened” because  
6 there is almost no surveillance and he was told the “hole” where he was moved is not  
7 recorded, only monitored. *Id.* at 11. As relief he asks the county to “rectify their policies  
8 to create accountability” and for legal counsel to help with “PDRs” as well as  
9 \$800,000.00 for medical expenses and suffering. *Id.* He states he feels his safety is at  
10 severe risk. *Id.*

11 The Court notes that on February 13, 2025, Plaintiff filed a notice of change of  
12 address with the Court indicating that he had been released from custody. Dkt. 38.

13 Defendants now move for summary judgment seeking to dismiss the remaining  
14 claims – contained in Count I. Dkt. 47. Plaintiff has filed a letter in opposition to the  
15 motion. Dkt. 56. Defendants have filed a reply. Dkt. 57.

## 16 STANDARD OF REVIEW

### 17 A. Summary Judgment

18 Summary judgment is proper only if the pleadings, discovery, and disclosure materials on  
19 file, and any affidavits, show that there is no genuine dispute as to any material fact and that the  
20 movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). The moving party is  
21 entitled to judgment as a matter of law when the nonmoving party fails to make a sufficient  
22 showing on an essential element of a claim in the case on which the nonmoving party has the  
23 burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). There is no genuine issue of

fact for trial where the record, taken as a whole, could not lead a rational trier of fact to find for the nonmoving party. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986); *see also* Fed. R. Civ. P. 56(e). Conversely, a genuine dispute over a material fact exists if there is sufficient evidence supporting the claimed factual dispute, requiring a judge or jury to resolve the differing versions of the truth. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 253 (1986); *T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors Ass'n*, 809 F.2d 626, 630 (9th Cir. 1987).

The nonmoving party “must do more than simply show that there is some metaphysical doubt as to the material facts.” *Matsushita Elec. Indus. Co.*, 475 U.S. at 586. The mere existence of a scintilla of evidence in support of the non-moving party’s position is not sufficient. *Triton Energy Corp. v. Square D Co.*, 68 F.3d 1216, 1221 (9th Cir. 1995).

Under Fed. R. Civ. P. 56(c),

A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact. Fed. R. Civ. P. 56

“An affidavit or declaration used to support or oppose a [summary judgment] motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.” Fed. R. Civ. P. 56(c)(4). “Only sworn affidavits – or unsworn declarations that are, *inter alia*, subscribed under penalty of perjury, pursuant 28 U.S.C. § 1746 – satisfy the requirement of Rule 56(c)(4).” *Young v. Allstate Company*, CV 20-04048, 662 F.Supp.3d 1066, 1073 (C.D. Cal. 2023) (citing *Schroeder v. McDonald*, 55 F.3d 454, 460 n.10 (9th Cir. 1995) and *Silverman v. Mendiburu*, 785 F. App’x 460 (9th Cir. 2019)). Furthermore, while a verified complaint may be used as an

opposing affidavit under Rule 56 to the extent it expresses personal knowledge of admissible facts, an unverified complaint is insufficient to counter a summary judgment motion supported by affidavits or sworn declarations. *Lew v. Kona Hosp.*, 754 F.2d 1420, 1423 (9th Cir. 1985). The nonmoving party cannot “defeat summary judgment with allegations in the complaint, or with unsupported conjecture or conclusory statements.” *Hernandez v. Spacelabs Med. Inc.*, 343 F.3d 1107, 1112 (9th Cir. 2003); Fed. R. Civ. P. 56(c), (e).

“On summary judgment the inferences to be drawn from the underlying facts contained in [the material submitted with respect to the motion] must be viewed in the light most favorable to the party opposing the motion.” *United States v. Diebold, Inc.*, 369 U.S. 654, 655 (1962). However, “[w]hen opposing parties tell two different stories, one of which is blatantly contradicted by the record, so that no reasonable jury could believe it, a court should not adopt that version of the facts for purposes of ruling on a motion for summary judgment.” *Scott v. Harris*, 550 U.S. 372, 380 (2007); and see *id.* at 380-81 (“Respondent’s version of events is so utterly discredited by the record that no reasonable jury could have believed him. The Court of Appeals should not have relied on such visible fiction; it should have viewed the facts in the light depicted by the videotape.”) (emphasis added).

**B. 42 U.S.C. § 1983**

To state a claim under 42 U.S.C. § 1983, a complaint must allege: (a) the conduct complained of was committed by a person acting under color of state law, and (b) the conduct deprived a person of a right, privilege, or immunity secured by the Constitution or laws of the United States. See *Parratt v. Taylor*, 451 U.S. 527, 535 (1981), *overruled on other grounds*, *Daniels v. Williams*, 474 U.S. 327 (1986). Section 1983 is the appropriate avenue to remedy an alleged wrong only if both of these elements are present. See *Haygood v. Younger*, 769 F.2d

1 1350, 1354 (9th Cir. 1985). The first step in a § 1983 claim is to identify the specific  
 2 constitutional right allegedly infringed. *Albright v. Oliver*, 510 U.S. 266, 271 (1994). To satisfy  
 3 the second prong, a plaintiff must allege facts showing how individually named defendants  
 4 caused, or personally participated in causing, the harm alleged in the complaint. *See Leer v.*  
 5 *Murphy*, 844 F.2d 628, 633 (9th Cir. 1988); *Arnold v. IBM*, 637 F.2d 1350, 1355 (9th Cir. 1981).  
 6 Sweeping conclusory allegations against an official are insufficient to state a claim for relief. *Leer*,  
 7 844 F.2d at 633.

## 8 EVIDENCE

9 Defendants have submitted video of the incident, interrogatory responses, staff incident  
 10 reports from Defendants Merritt and Arias, the declaration of Defendant Robinson, the  
 11 declaration of Gertrudiz Codero-Nieves, the declaration of records custodian Tyler Entrekin,  
 12 photographs of Plaintiff taken 10 minutes after the incident, and Plaintiff's medical records from  
 13 July 10, 2019, August 10, 2024, and August 11, 2024. Dkt. 48 at 36-43 (Exs. F, G, H). Plaintiff  
 14 submitted a letter in opposition to the motion. Dkt. 56.

15 A staff incident report completed by Defendant Merritt states:

16 While working in booking on 8-10-2024 at approximately 1435 hours Inmate  
 17 Coleman, Travis... came into the pre-book counter on an AMR gurney uncooperative.  
 18 Inmate Coleman refused to answer most medical questions and refused to let RN Marina  
 19 take heart rate by flicking off the heartrate monitor. RN Marina cleared Inmate Coleman  
 20 to stay. Sergeant Robinson asked if Inmate Coleman could dress himself out and he said  
 21 "I would like to see you try and get my clothes off you fat faggot! I will violently attack  
 22 you!"

23 While being escorted on AMR's gurney to side cell #9 Inmate Coleman said "I'll  
 kill you all! We're in jail so it's not a crime!" Once Inmate Coleman was in front of cell  
 #9 his soft restraints were removed from his hands, and I handcuffed them behind his  
 back. Inmate Coleman's soft ankle restraints were removed, and I helped him to his feet  
 while holding his left arm. I escorted Inmate Coleman to the back of the cell, and he  
 immediately resisted pushing back on me. I directed Inmate Coleman to face the back  
 wall and not to turn on me. Inmate Coleman immediately jumped up onto the bench and I  
 pushed forward on his left arm and upper left shoulder forcing him down to the ground. I  
 then switched to Inmate Coleman's right arm and put my right knee into his right  
 shoulder pinning him to the ground as he was actively pushing up against me. Inmate  
 Coleman's lower clothing was removed. Handcuffs were removed from Inmate Coleman,

1 and I controlled his right arm articulating it above his head and removing his upper  
2 clothing. I then articulated Inmate Coleman's right arm to the small of his back and  
3 exited the cell.

3 Dkt. 49.

4 A staff incident report completed by Defendant Arias states that:

5 On 08/10/2024, at approximately 1435 hours, New Book, Inmate Coleman,  
6 Travis Clinton B/A #2024-009833, arrived at King county Jail (KCJ) with Seattle Police  
7 Department for one count of felony malicious mischief, two counts of felony harassment  
8 and one count of felony harassment with the domestic violence label. Inmate Coleman  
9 arrived at KCJ via gurney with American Medical Response (AMR.) Inmate Coleman  
10 was previously declined due to an altered mental status.

11 During the initial pre-booking assessment, Inmate Coleman answered the  
12 medical questions. Jail Health Services (JHS) Nurse Marina medically evaluated and took  
13 Inmate Coleman's vital signs and determined that he was clear to stay in our custody.  
14 Nurse Marina told Inmate Coleman that he was good to stay in our custody and Inmate  
15 Coleman replied to her "I hope you die." Sergeant Robinson asked Inmate Coleman if he  
16 was going to cooperate with the dress out procedure and remove his clothing on his own  
17 once the gurney soft restraints were removed or if he would need assistance in removing  
18 his clothing, Inmate Coleman replied with "no, I will violently assault you, you can bet  
19 your life on it, faggot." Inmate Coleman was transported to side cell #9 via gurney. Once  
20 in front of the cell, Sergeant Robinson asked Inmate Coleman one more time if he was  
21 going to cooperate with the dress-out procedure, but Inmate Coleman replied with "I will  
22 kill all of you."

23 Sergeant Robinson gave directives on how to safely remove Inmate Coleman  
from the gurney soft restraints. I released Inmate Coleman's right hand from the soft  
gurney strap. Inmate Coleman's upper body was leaned forward to a sitting position. I  
slowly rotated Inmate Coleman's right hand and placed it behind his back. Officer Merritt  
applied mechanical wrist restraints on Inmate Coleman's wrists. Inmate Coleman's ankles  
were released from the gurney soft straps and Sergeant Robinson directed him to stand  
up. I placed my left hand on Inmate Coleman's right triceps and Officer Merritt and I  
soft-hand escorted him inside cell #9. Inside the cell, I directed Inmate Coleman to face  
the back wall of the cell at all times, but he started to tense up his right arm and attempted  
to turn towards me. I instructed Inmate Coleman to remain facing the wall, but he  
star[t]ed to push his body backwards towards Officer Merritt and me. Inmate Coleman  
then started to actively resist Officer Merritt and me by trying to pull his arms away from  
our grasp. Inmate Coleman was able to stand up on the bench inside the cell. I still had  
control of Inmate Coleman's right arm. Officer Merritt and I were able to support Inmate  
Coleman's upper body weight and brought him down to the bench. Once standing on the  
floor, Officer Merritt and I supported Inmate Coleman's upper body weight and Sergeant  
Robinson and Officer Grant grasped Inmate Coleman's ankles and pulled backwards in  
order to place Inmate Coleman in the prone position.

Inmate Coleman continued to actively resist Sergeant Robinson and Grant's effort  
to secure his legs. I transitioned to Inmate Coleman's legs and Officer Merritt transitioned  
to my previous position on Inmate Coleman's right arm. I was able to place both Inmate  
Coleman's legs on the floor and I placed my right leg on the back of Inmate Coleman's  
hamstrings, and I used my left hand to apply pressure on Inmate Coleman's feet to secure



1 them against the floor. Once I had full control of Inmate Coleman's legs, I removed  
2 Inmate Coleman's lower body clothing by lowering it towards his ankles.

3 Sergeant Robinson placed a clean red uniform on Inmate Coleman's buttocks for  
4 privacy. I secured Inmate Coleman's legs with a figure four leg lock. I placed Inmate  
5 Coleman's right foot in the back of his left knee, I then bent Inmate Coleman's left leg at  
6 the knee, securing Inmate Coleman's right foot under his left leg. I placed feet on the  
7 ground for body support and I used my knees to apply light pressure on Inmate  
8 Coleman's legs to secure them against the floor. Sergeant Robinson removed the  
9 mechanical wrist restraints from Inmate Coleman's wrists and Officers Merritt and Grant  
10 removed Inmate Coleman's upper body clothing. Officers Merritt and Grant rotated  
11 Inmate Coleman's hands and placed them in the small of his back. I took control of  
12 Inmate Coleman's hand and apply pressure on them to secure them against his back. At  
13 this moment I had control of all for [sic] Inmate Coleman's extremities. Sergeant  
14 Robinson instructed Inmate Coleman to remain on the floor until the door was closed.  
15 Sergeant Robinson and Officers Merritt and Grant exited the cell. I released Inmate  
16 Coleman's upper and lower extremities and backed out of the cell. Cell #9 door was  
17 closed without further incident.

18 Dkt. 51.

19 The declaration submitted by Defendant Robinson states that:

20 On August 10, 2024, Mr. Coleman was brought to the pre-booking area on a  
21 stretcher by AMR personnel and officers from the Seattle Police Department. During the  
22 pre-booking process and medical screening, Mr. Coleman became verbally assaultive  
23 towards staff. When Mr. Coleman refused to answer questions, I responded to the pre-  
booking counter. When Mr. Coleman stated he would not cooperate and would fight the  
officers, I requested that Officer Cordero-Nieves take video of Mr. Coleman and handed  
her a department issued cell phone.

...  
The video shows officers trying to de-escalate Mr. Coleman and giving him the  
opportunity to change out of his street clothes and into the jail uniform on his own. When  
officers placed Mr. Coleman in the cell, he jumped up on a bench that is approximately  
two feet off the ground and had to be forcefully pulled down off of it. When Mr.  
Coleman continued to refuse to assist with his dress out into the jail uniform, officers  
forced Mr. Coleman onto the floor, which resulted in Mr. Coleman's legs temporarily  
going in opposite directions until the officers could move Mr. Coleman's left leg from the  
front of his body to the back. While officers did remove Mr. Coleman's clothing, they did  
not forcefully redress him in the jail uniform due to his highly agitated state.

After approximately ten minutes, I went back to the door of the cell to check on  
Mr. Coleman, who by that time had put on his jail uniform. I attempted to ask Mr.  
Coleman if he needed anything but Mr. Coleman continued to yell threats at me, such as  
stating that he was going to kill me because in the jail "nothing will happen" if he did. At  
no time did Mr. Coleman ask for medical assistance or to see a nurse, despite his cell  
being located directly across from the medical station and within his direct line of sight.

24 Dkt. 50. Defendant Robinson also states that he took photographs of Defendant Coleman when  
25 he spoke to him and those photographs are also submitted in support of Defendants' motion. *Id.*



1 The declaration submitted by officer Gertrudiz Codero-Nieves states, in relevant part:

2 On August 10, 2024, during the pre-booking process and medical screening,  
3 plaintiff became verbally assaultive towards staff. When Mr. Coleman refused to answer  
4 questions, Sgt. Robinson responded to the pre-booking counter. When Mr. Coleman  
5 stated he would not cooperate and would fight the officers, Sgt. Robinson requested that I  
6 take video of plaintiff and handed me a department issued cell phone. I then recorded the  
7 interaction between plaintiff and other officers.

8 I asked Mr. Coleman if he needed to see the nurse. I then handed the phone back  
9 to Sgt. Robinson.

10 Dkt. 52.

11 The video submitted by Defendants shows Plaintiff on a gurney with two American  
12 Medical Response (“AMR”) personnel and four jail officers around the gurney. *See* Dkt. 55, Ex.  
13 A (DVD containing video of incident). One of the officers can be heard informing Plaintiff that  
14 they are going to get him inside his cell “and then we’re going to get your clothes from you, ok?”  
15 *Id.* Plaintiff responds “Are you? You better hope so. You bet your life on it you won’t. You bet  
16 your fucking life on it you fat fucking faggot.” *Id.* As Plaintiff is being moved on the gurney  
17 down the hall, another officer can be heard telling Plaintiff “he wants you to do it, that’s what he  
18 said.” *Id.* Plaintiff responds “That’s right that’s what he said. Try to get my clothes off. You  
19 don’t understand that murder in jail ... that’s not a crime.” *Id.* One of the officers responds that  
20 “it is.” *Id.* Plaintiff then responds, “you think it is, but I could kill each one of you if you put your  
21 hands on me.” *Id.*

22 The gurney is then stopped in front of Plaintiff’s cell. *Id.* An officer can be heard  
23 instructing Plaintiff to sit up and then the officers can be seen removing Plaintiff’s arms and legs  
from the gurney straps and placing mechanical wrist restraints on Plaintiff, securing his hands  
behind his back. *Id.* The officers then help Plaintiff stand up from the gurney and escort Plaintiff  
into the cell with one officer on either side of Plaintiff holding his upper arms and two officers  
walking behind Plaintiff. *Id.* An officer can then be heard telling Plaintiff three times to face the

1 back wall of the cell. *Id.* Plaintiff can then be seen to try to turn to his right and begin pushing his  
2 body backwards into the officers holding his arms. *Id.* Plaintiff can then be seen to step up on the  
3 bench at the back of the cell with his left leg in an attempt to pull himself away from the officer's  
4 grasp. *Id.* The four officers, two holding Plaintiff's upper arms and two holding him at his wrists,  
5 are able to pull Plaintiff back down from the bench to a standing position and then as Plaintiff  
6 actively struggles and resists, his left leg still reaching towards the bench, the officers lift his  
7 body up and put Plaintiff's on the floor on his stomach. *Id.* However, due to Plaintiff's tensing  
8 his legs and body, resisting and extending his left leg towards the bench, his legs go in opposite  
9 directions for several seconds with his left leg getting stuck extended in front of his body as his  
10 torso is placed on the floor and his right leg first extending back behind his body and then  
11 bending underneath his body. *Id.*

12 One officer can be heard to instruct another officer to "get his leg out from under him"  
13 and one of the officers at the back of the cell behind Plaintiff pulls Plaintiff's extended left leg  
14 around towards the back of his body. *Id.* An officer can be heard telling Plaintiff to "lay flat on  
15 your stomach." *Id.* Plaintiff's extended left leg briefly gets stuck on the base of the toilet as the  
16 officer tries to move it from the front to the back of Plaintiff's body, but the officer is able to  
17 bend Plaintiff's left leg to move it around the toilet. *Id.* A second officer moves Plaintiff's right  
18 leg out from under his body so that both of Plaintiff's legs are parallel extended behind his body  
19 which is prone with Plaintiff lying on his stomach. *Id.* The officer controlling Plaintiff's right leg  
20 then kneels on both of Plaintiff's lower legs/calves to secure his legs and pulls his pants and  
21 underpants down towards his ankles and then releases Plaintiff's legs briefly to pull his pants and  
22 underpants all the way off. *Id.* Another officer then places a red jail uniform over Plaintiff's  
23

1 buttocks. *Id.* The officer holding Plaintiff's legs then places Plaintiff's right foot in the back of  
2 his left knee and bends his left leg at the knee to secure his right foot under his left leg. *Id.*

3 The officer on the left towards the front of Plaintiff's body can be seen placing his knee  
4 in the area of Plaintiff's left side to keep his upper body under control and can be heard telling  
5 Plaintiff "sir we're going to need you to relax, do not tense up, we're going to remove your  
6 clothes for you OK and we're gonna give you a jail uniform." *Id.* Another officer now standing  
7 on Plaintiff's right side then removes Plaintiff's handcuffs. *Id.* The officer controlling Plaintiff's  
8 left arm and side then stands up telling Plaintiff again to relax and let them guide his hands and  
9 that they are going to put his hands out in front of him and remove his shirt. *Id.* The actions of  
10 the two officers now toward the front of Plaintiff's body are somewhat obscured for a short  
11 period at this point but they appear to be removing Plaintiff's shirt from his upper body as the  
12 officer on Plaintiff's right arm side then hands another officer Plaintiff's shirt. *Id.*

13 The officer on Plaintiff's left arm side then tells Plaintiff to put his hands back behind his  
14 back and the officer on the right arm side can be seen guiding Plaintiff's arm back behind his  
15 back. *Id.* The officer controlling Plaintiff's legs then also holds Plaintiff's wrists behind his back.  
16 *Id.* The officer on Plaintiff's right arm side then tells Plaintiff to stay down on the ground until  
17 the door closes. *Id.* The officers then leave the cell with the officer holding Plaintiff's arms and  
18 legs telling Plaintiff not to jump up and then releasing Plaintiff and departing the cell last. *Id.*  
19 The door to the cell is closed and then the officer holding the video camera asks Plaintiff through  
20 the cell door twice if he needs to see the nurse. *Id.*

21 The medical record from July 10, 2019, reflects that Plaintiff sustained a neck injury  
22 during an assault in 2014 and subsequently underwent a discectomy at C-5 and a C5-6 fusion.  
23 Dkt. 48 at 36 (Ex. F). The medical record from August 10, 2024, dated several hours after the

1 incident, indicates that Plaintiff denied acute medical, dental and mental health concerns and that  
2 he “ambulat[ed] independently with [a] steady gait.” *Id.* at 38-39. The record also reflects a  
3 diagnosis of cervicalgia, cervical radiculopathy, chronic pain and several other diagnoses. *Id.*  
4 The record reflects that Plaintiff was placed in the side cell for being uncooperative at pre-  
5 booking, that he had been kicking the cell door and that Plaintiff was intermittently agitated and  
6 uncooperative, but also redirectable after long periods of active listening. *Id.*

7 The medical record from August 11, 2024, indicates that Plaintiff submitted “a kite c/o  
8 that was assaulted by CO last night and c/o pain in left thigh...Pt reports ‘I have a huge knot on  
9 the back of my left leg.’” *Id.* at 41-42. The record reflects that Plaintiff “ambulates in an upright  
10 position with a steady gait” and with respect to his left thigh “ROM intact, skin intact, no  
11 swelling present, no bruise present, able to extend and flex leg.” *Id.*

12 The interrogatory responses from Defendants Merritt, Robinson and Arias state that they  
13 were unaware of Plaintiff’s “mental health and physical disability” at the time of the incident.  
14 Dkt. 48 at 5-28.

15 The letter submitted by Plaintiff in response to Defendants motion is unsworn and states  
16 only that he is not sure how to respond to Defendants’ motion, that his case should not be  
17 dismissed, that he believes he should have appointed counsel, and that he believes the assigned  
18 Magistrate Judge should have appointed him counsel and should have been removed for denying  
19 him counsel.<sup>1</sup> Plaintiff’s complaint is also unverified – it does not contain a sworn statement  
20 declaring under penalty of perjury, that the allegations are true and correct pursuant to 28 U.S.C.  
21 § 1746.<sup>2</sup>

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22  
23 <sup>1</sup> Plaintiff’s letter does not directly address or object to any of the evidence submitted in support of  
Defendants’ motion for summary judgment.

<sup>2</sup> 28 U.S.C. § 1746 states, in relevant part:

## DISCUSSION

Defendants contend they are entitled to summary judgment because no genuine issue of material fact exists regarding Plaintiff's claims in Count I and that they are further entitled to qualified immunity. Dkt. 47.

### A. *Excessive Force*

Plaintiff alleges Defendants Merritt, Arias and Robinson used excessive force against him. Dkt. 5. The Fourteenth Amendment Due Process Clause protects pretrial detainees from excessive force. *Kingsley v. Hendrickson*, 576 U.S. 389, 393 (2015). To prevail on such a claim, “a pretrial detainee must show only that the force purposely or knowingly used against him was objectively unreasonable.” *Id.* at 396-97. “[O]bjective reasonableness turns on the ‘facts and circumstances of each particular case,’” without regard to the officers’ underlying intent or motivation. *Id.* (quoting *Graham v. Connor*, 490 U.S. 386, 396 (1989)). The Court must weigh the circumstances from the viewpoint of a reasonable officer at the scene and “account for the legitimate interests that stem from the government’s need to manage the facility in which the individual is detained, appropriately deferring to policies and practices that in the judgment of jail officials are needed to preserve internal order and discipline and to maintain institutional

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Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form: ... (2) If executed within the United States, its territories, possessions, or commonwealths: “I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).  
(Signature)”.

1 security.” *Id.* (internal quotation and citation omitted). In assessing reasonableness, the Court  
2 may consider “the relationship between the need for the use of force and the amount of force  
3 used; the extent of the plaintiff’s injury; any effort made by the officer to temper or to limit the  
4 amount of force; the severity of the security problem at issue; the threat reasonably perceived by  
5 the officer; and whether the plaintiff was actively resisting.” *Id.*

6 Here, the evidence, viewed in the light most favorable to Plaintiff, shows that Defendants  
7 did not use excessive force against Plaintiff. The evidence shows that while Plaintiff was  
8 restrained on the gurney, jail staff informed Plaintiff that they needed to “get Plaintiff’s clothes  
9 from him.” Dkt. 55, Ex. A. One of the officers indicated to Plaintiff that they wanted him to  
10 remove his own clothes. *Id.* Plaintiff was verbally aggressive in response, cursing and  
11 threatening physical harm to the jail staff if they put their hands on him or attempted to take his  
12 clothes. *Id.* The evidence shows that Plaintiff was removed from the gurney restraints, put in  
13 handcuffs, and escorted into the cell by Defendants Arias, Merritt, Robinson and non-defendant  
14 Grant. Dkts. 45, 50, 51, 55, Ex. A. Once in the cell Defendant Arias instructed Plaintiff to face  
15 the back wall, but Plaintiff began to actively resist the officers, pushing his body back against  
16 them. *Id.* Plaintiff then stepped up onto the bench with his left foot in an attempt to evade the  
17 grasp of the officers. *Id.*

18 The four officers, two holding Plaintiff’s upper arms (Merritt and Arias) and two holding  
19 him at his wrists (Robinson and Grant), were able to pull Plaintiff back down from the bench to a  
20 standing position and then as Plaintiff actively struggled and resisted, his left leg still reaching  
21 towards the bench, the officers lifted his body up and placed Plaintiff on the floor on his  
22 stomach. *Id.* However, due to Plaintiff’s tensing his legs and body, resisting and extending his  
23 left leg towards the bench, his legs went in opposite directions for several seconds with his left

1 leg getting stuck extended in front of his body as his torso was placed on the floor while his right  
2 leg first extended back behind his body and then bent underneath his body. *Id.* Defendant  
3 Robinson then moved Plaintiff's left leg to the back of his body and Defendant Arias kneeled on  
4 Plaintiff's lower legs/calves to secure his legs while he removed Plaintiff's pants and underwear.  
5 *Id.* Defendant Arias then placed Plaintiff's right foot in the back of his left knee and bent his left  
6 leg at the knee to secure his right foot under his left leg and kneeled on Plaintiff's legs to secure  
7 them. *Id.* Defendant Robinson removed Plaintiff's handcuffs and Defendant Merritt and non-  
8 Defendant Grant moved Plaintiff's arms above his head and removed his shirt. *Id.* Defendants  
9 Merritt and non-Defendant Grant then moved Plaintiff's hands behind his back and Defendant  
10 Arias held Plaintiff's wrists in place behind his back. *Id.* The officers then left the cell with  
11 Defendant Arias being the last to leave. *Id.*

12         The evidence shows Defendants' use of force was proportional to the need for that force.  
13 Plaintiff was combative engaging in verbal threats to physically harm the officers and then  
14 engaging in active physical resistance when officers attempted to secure him in his cell and  
15 change him out of his clothes and into a jail uniform.

16         The evidence presented by Defendants also indicates that Plaintiff did not sustain a  
17 significant injury. Defendants submit evidence that Plaintiff did not request medical assistance  
18 immediately after the incident and that he was alert and standing at least ten minutes following  
19 the incident. Dkt. 50. The medical records show that several hours after the incident Plaintiff  
20 denied acute medical, dental and mental health concerns and that he "ambulat[ed] independently  
21 with [a] steady gait." Dkt. 48 at 38-39. The medical record from the day after the incident  
22 indicates that Plaintiff complained of pain and a knot in the back of his left leg but that on  
23 examination Plaintiff "ambulate[ed] in an upright position with a steady gait" and with respect to



1 his left thigh the record reflects “ROM intact, skin intact, no swelling present, no bruise present,  
2 able to extend and flex leg.” *Id.* at 41-50. Furthermore, Defendants’ evidence reflects the cervical  
3 injury and surgery Plaintiff references in the complaint occurred several years before this  
4 incident and that Defendants were unaware of any physical disability. *Id.* at 36; Dkt. 48 at 8-31.  
5 Furthermore, to the extent Plaintiff was injured, the evidence shows it was in the context of  
6 officers using proportional force to control Plaintiff in direct response to Plaintiff’s efforts to  
7 physically resist the officers.

8 The evidence also shows that officers made efforts to temper the amount of force by  
9 providing several verbal instructions and warnings to Plaintiff including instructing him to face  
10 the wall, to stop tensing and to relax his body and informing him when they were going to  
11 remove his clothes and his handcuffs. Dkt. 55, Ex. A.

12 A reasonable officer at the scene could reasonably perceive Plaintiff, who was actively  
13 physically resisting and had verbally threatened violence against jail staff, posed a threat to jail  
14 staff and jail security. The evidence shows there is no genuine issue of material fact regarding  
15 whether Defendants violated Plaintiff’s Fourteenth Amendment rights.

16 As noted above, the letter submitted by Plaintiff in response to Defendants motion is not  
17 sworn or attested under penalty of perjury and states only that he is not sure how to respond to  
18 Defendants’ motion, that his case should not be dismissed, that he believes he should have  
19 appointed counsel, and that he believes the assigned Magistrate Judge should have appointed him  
20 counsel and should have been removed for declining to appoint him counsel.<sup>3</sup> Dkt. 56. Plaintiff’s  
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22 <sup>3</sup> The Court notes that the assigned Magistrate Judge, the Hon. Brian A. Tsuchida, denied Plaintiff’s two  
23 prior motions to appoint counsel in this case finding Plaintiff failed to show extraordinary circumstances  
in that Plaintiff had been able to articulate his claims, his claims were not complex, and he had not shown  
a likelihood of success on the merits. Dkts. 8, 26. Plaintiff then moved to recuse the Judges assigned to  
his case based on the denial of his requests for counsel. Dkt. 30. That motion was denied by the

1 complaint is also unverified – it does not contain a sworn statement declaring under penalty of  
2 perjury, that the allegations are true and correct pursuant to 28 U.S.C. § 1746. As such, the Court  
3 cannot consider the complaint or the letter as evidence in opposing defendant’s motion for  
4 summary judgment. *See Lew*, 754 F.2d at 1423; *Hernandez*, 343 F.3d at 1112.

5 Even if the Court were to consider the complaint and Plaintiff’s letter as evidence, they  
6 fail to raise a genuine issue of material fact considering the video and other evidence presented  
7 by Defendants. The video presented by Defendants, in particular, refutes the allegations of  
8 Plaintiff’s complaint regarding Defendants’ alleged use of excessive force. *See Scott*, 550 U.S. at  
9 380-81 (finding the court below erred in denying defendants’ motion for summary judgment  
10 where video evidence completely contradicted and discredited plaintiff’s version of events such  
11 that no reasonable jury could believe him).

12 In sum, considering the evidence as a whole, Plaintiff has not shown a genuine issue of  
13 material fact exists regarding whether the force used by Defendants was objectively  
14 unreasonable. Accordingly, Defendants’ motion for summary judgment is granted as to the  
15 excessive force claim.

16 B. *Conditions of Confinement*

17 Plaintiff also makes generalized assertions in Count I that his cell floor was dirty, that he  
18 was not given toilet paper or food for 18 hours and that he was not given socks, shoes or sandals  
19 for four days. Dkt. 5. It is not clear whether Plaintiff intends to raise separate constitutional  
20 claims with respect to these allegations. However, to the extent Plaintiff intends to do so, these  
21 claims are also dismissed for the reasons below.

22  
23 \_\_\_\_\_  
undersigned Judge and referred to the Chief District Court Judge for consideration. Dkt. 31. Chief District  
Court Judge David G. Estudillo subsequently affirmed the denial of recusal. Dkt. 34.

1 A pretrial detainee has a right, pursuant to the Due Process Clause of the Fourteenth  
 2 Amendment, to be free from punishment prior to an adjudication of guilt. *Bell v. Wolfish*, 441  
 3 U.S. 520, 535 (1979). “[P]re-trial detainees are entitled to ‘adequate food, clothing, shelter,  
 4 sanitation, medical care, and personal safety.’” *Alvarez-Machain v. United States*, 107 F.3d 696,  
 5 701 (9th Cir. 1996) (*overruled on other grounds*) (quoting *Hoptowit v. Ray*, 682 F.2d 1237, 1246  
 6 (9th Cir. 1982)). To support a claim of unconstitutional conditions of confinement against an  
 7 individual defendant, a pretrial detainee must show:

8 (i) the defendant made an intentional decision with respect to the conditions under which  
 9 the plaintiff was confined; (ii) those conditions put the plaintiff at substantial risk of  
 10 suffering serious harm; (iii) the defendant did not take reasonable available measures to  
 11 abate that risk, even though a reasonable official in the circumstances would have  
 appreciated the high degree of risk involved—making the consequences of the  
 defendant's conduct obvious; and (iv) by not taking such measures, the defendant caused  
 the plaintiff's injuries.

12 *Gordon v. Cnty. of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018).<sup>4</sup>

13 Whether the conditions and conduct rise to the level of a constitutional violation is an  
 14 objective assessment that turns on the facts and circumstances of each particular case. *Id.* That  
 15 said “a de minimis level of imposition” is insufficient to rise to the level of a constitutional  
 16 violation. *Bell*, 441 U.S. at 539 n.21. Further, the “ ‘mere lack of due care by a state official’  
 17 does not deprive an individual of life, liberty, or property under the Fourteenth Amendment.”  
 18 *Castro v. Cnty. of Los Angeles*, 833 F.3d 1060, 1071 (9th Cir. 2016) (quoting *Daniels v.*

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20 <sup>4</sup> Previously, “all conditions of confinement claims were analyzed under a subjective deliberate  
 21 indifference standard whether brought by a convicted prisoner under the Eighth Amendment or pretrial  
 22 detainee under the Fourteenth Amendment.” *Gordon*, 888 F.3d at 1122-23 (citing *Clouthier v. County of*  
 23 *Contra Costa*, 591 F.3d 1232, 1242-43 (9th Cir. 2010)). Although it does not appear the Ninth Circuit has  
 expressly extended the objective deliberate indifference standard to all pretrial detainee conditions of  
 confinement claims beyond a denial of medical care, failure-to-protect, and to excessive force claims, the  
 decision in *Gordon* strongly suggests it will do so. *See Gordon*, 888 F.3d at 1120, 1124, and 1124 n.2  
 (citing *Darnell v. Pineiro*, 849 F.3d 17, 36 (2d Cir. 2017) (extending objective deliberate indifference  
 standard to all pretrial detainee conditions of confinement claims)).

1 *Williams*, 474 U.S. 327, 330-31 (1986)). A plaintiff must “prove more than negligence but less  
2 than subjective intent—something akin to reckless disregard.” *Id.*

3 Here, Plaintiff fails to adequately allege or submit evidence that the conditions alleged  
4 put the plaintiff at substantial risk of suffering serious harm. Furthermore, in order to state a  
5 claim under 42 U.S.C. § 1983, a plaintiff must allege facts showing how individually named  
6 defendants caused, or personally participated in causing, the harm alleged in the complaint. *See*  
7 *Leer*, 844 F.2d at 633; *Arnold*, 637 F.2d at 1355. Sweeping conclusory allegations against an  
8 official are insufficient to state a claim for relief. *Leer*, 844 F.2d at 633. In this case, Plaintiff fails  
9 to adequately link any of his allegations regarding the alleged conditions to any named  
10 Defendant. He does not allege that he informed any of the individual Defendants of the  
11 challenged conditions or that Defendants were aware, or should have been aware, of these  
12 conditions, or that Defendants made an intentional decision to subject him to the conditions and  
13 failed to take reasonable available measures to abate a substantial risk of serious harm to  
14 Plaintiff.

15 Furthermore, Defendants submit evidence in the form of their interrogatory responses  
16 that, to their knowledge, Plaintiff was either given food or they did not recall Plaintiff asking for  
17 food; that they do not know why Plaintiff did not have toilet paper or that they do not recall him  
18 requesting toilet paper; that cells in the booking area are cleaned every shift which equates to at  
19 least three times a day; and that they do not know why Plaintiff was not given shoes or sandals  
20 for several days but that in some instances detainees are not given sandals immediately if they  
21 are resistant because they will hit the door with them. Dkt. 48 at 5-28. Plaintiff fails to present  
22 any evidence to contradict this evidence presented by Defendants or to otherwise show that the  
23 individually named Defendants violated his constitutional rights.

1 Accordingly, Defendants are entitled to summary judgment and dismissal of these claims  
2 as well.

3 **CONCLUSION**

4 For the foregoing reasons, Defendants' motion for summary judgment (Dkt. 47) is  
5 granted, Plaintiff's remaining claims – contained in Count I – are dismissed with prejudice. As  
6 all other claims – Counts II and III – were previously dismissed and no claims remain in this  
7 action, the Clerk is directed to close the case.

8 The Clerk shall provide copies of this order to Plaintiff and counsel for Defendants.

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10 DATED this 21st day of August 2025.

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13 John C. Coughenour  
14 UNITED STATES DISTRICT JUDGE  
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